UNITED STATES DISTRICT COURT

For the

Western District of Texas El Paso Division

FILED

APR - 3 2017

CLERK, U.S. DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
BY ________ DEPUTY

United States of America)
)
v) Case No.
)
) EP-17-mj-1293-ATB
Silvino GONZALEZ-Francisco)
Defendant(s))

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief:

On or about the date(s) of March 30, 2017 in the county of Hudspeth in the Western District of Texas, the defendant(s) violated:

Code Section	*Offense Description*
8 USC 1326	Being an alien to the United States, enter, attempt to enter, and was found in the United States after having been previously excluded, deported, and removed from the United States without receiving permission to reapply for admission to the United States from the Attorney General of the United States and the Secretary of Homeland Security, the successor pursuant to Title 6, United States Code, Sections 202(3), 202(4), and 557.

This criminal complaint is based on these facts:

That on March 30, 2017, the DEFENDANT was apprehended during checkpoint operations by Border Patrol Agent Reyes Tena-Martinez at the United States Border Patrol Checkpoint. The United States Border Patrol Checkpoint is located on I-10 East Mile Marker 102.5, approximately four miles west of Sierra Blanca, Texas.

☑ Continued on the attached sheet.

Complainant's signature

Daniel Gomez Border Patrol Agent
Printed name and title

Sworn to before me and signed in my presence.

Date: April 3, 2017

Judge's signature

City and state: El Paso, Texas

Leon Schydlower U.S. Magistrate Judge
Printed name and title

CONTINUATION OF CRIMINAL COMPLAINT

WESTERN DISTRICT OF TEXAS

April 3, 2017
FACTS (CONTINUED)

From statements made by the DEFENDANT to the arresting agent, he was determined to be a native and citizen of Mexico, that last entered the United States illegally along the United States / Mexico International Boundary Line 1 miles east of the Paso Del Norte Port of Entry in El Paso, Texas on March 26, 2017 and was not inspected, admitted, or paroled by a Customs and Border Protection Officer with the Department of Homeland Security.

On March 29, 2017, Border Patrol Agent Reyes Tena-Martinez was assigned to the Sierra Blanca Border Patrol Checkpoint located at mile marker 102.5 west of Sierra Blanca, Texas. At around 8:30 pm, Agent Tena-Martinez was assigned to the primary vehicle inspection lane. While on primary a red Toyota Corolla approached the primary vehicle lane for an immigration inspection of its passengers. Once the vehicle made a complete stop in primary inspection, Agent Tena-Martinez noticed there was only the driver inside the vehicle. Agent Tena-Martinez questioned the driver as to his citizenship and stated that he was a United States Citizen and noticed that the driver's hands were shaking. Agent Tena-Martinez later requested consent to search trunk of the car. The driver consented to the search of the trunk. Agent Tena-Martinez asked the driver to open the trunk and he stated it was open. Agent Tena-Martinez proceeded to the back of the red Corolla and discovered that the trunk remained locked. Agent Tena-Martinez advised the driver that the trunk was locked and asked him again to unlock it. At that time the driver ignored the command and sped off from the U.S Border Patrol Checkpoint. Agent Tena-Martinez yelled at the driver and commanded him to stop. The driver ignored the agent's commands and proceeded eastbound on Interstate 10.

Agent Tena-Martinez entered a marked Border Patrol vehicle along with Border Patrol Agent Thomas Chavez. Agent Tomas Chavez initiated the lights and sirens and proceeded the vehicle pursuit. Once behind the vehicle, Agent Tena-Martinez observed the vehicle briefly stop near MM103 on I-10. Agent Tena-Martinez noticed the back right passenger door open and someone exit out of the vehicle. The driver sped off and continued to proceed east on I-10. The driver, drove for approximately 1 mile and stopped again near MM104. As the driver came to a stop, Agent Tena-Martinez proceeded to stop his pursuit vehicle and extracted the driver out of his vehicle. Agent Rolon and Agent Tena-Martinez secured the driver and transported him to the U.S Border Patrol Checkpoint. A search for the individual that was seen exiting the vehicle was initiated where the vehicle made his first stop.

On March 30, 2017, Border Patrol Agent Rolando Montelongo was assigned to the Mobile Surveillance Camera Unit (MSC). Agent Montelongo deployed the MSC north of I-10 near mile marker 104. At approximately 2:30 a.m., Agent Montelongo observed an individual walking in the brush south of I-10. At that time, Agent Montelongo requested other agents to the area to help locate the individual. At approximately 3:30 a.m., Agent Bitar located foot sign and shortly after that encountered an individual hiding in a wash. Agent Bitar identified himself as a Border Patrol Agent and began to question the DEFENDANT, Silvino GONZALEZ-Francisco, as to his citizen. The DEFENDANT responded that he was not a United States citizen and admitted to being illegally present in the United States and was not in possession of any valid U.S. Immigration Documents that would allow him to be in or remain in the United States legally, nor did he have any petitions pending on his behalf with the Department of Homeland Security. The DEFENDANT was transported to the Sierra Blanca, Texas Border Patrol Station for processing and disposition.

During questioning the DEFENDANT admitted that he was the individual inside the trunk of the red Toyota Corolla and that he had exited the car and ran into the brush.

The DEFENDANT was advised of his rights in the Spanish language as per Department form I-214 by Border Patrol Agents and the defendant acknowledged and stated that he understood his rights by signing Department form I-214.

CONTINUATION OF CRIMINAL COMPLAINT

WESTERN DISTRICT OF TEXAS

April 3, 2017
FACTS (CONTINUED)

The DEFENDANT's fingerprints and photo were enrolled into the E3/IDENT/NGI database which yielded positive results for both criminal and immigration history.

CRIMINAL HISTORY:

Date: 09/10/2005
Agency: Metropolitan Nashville Police Department
Place: Nashville, TN
Charge: Driver License Required
Disposition: Unknown

IMMIGRATION HISTORY:

Date: 07/02/2012
Agency: USBP
Place: Casa Grande
Charge: 8 USC 1182 / 18 USC 3144
Disposition: Removed to his native country of Mexico through Nogales, AZ on 07/31/2012.

Further immigration records checks revealed that the DEFENDANT has been previously removed from the United States and has not received permission from the Attorney General of the United States or the Secretary of Homeland Security to reapply for admission into the United States.

The DEFENDANT does not have any petitions pending on his behalf with the Department of Homeland Security.

Since his last removal, the DEFENDANT has neither asked nor received permission from the Secretary of the Department of Homeland Security to enter the United States legally and is therefore deemed illegally present in the United States.

Because this Affidavit is being submitted for the limited purpose of establishing probable cause as set forth herein, I have not included each and every fact known to me concerning this investigation.